

OPS Public Meeting On Operator Qualification

DOUBLETREE - ATLANTA BUCKHEAD

ATLANTA, GEORGIA

WEDNESDAY, APRIL 23, 2003

MEETING SUMMARY

Richard Sanders opened the meeting. Copies of presentations, protocols, and questions from the public meeting will be placed on the OPS Web Site (<http://primis.rspsa.dot.gov/oq>) and should be referred to for information. Richard's presentation briefly recapped past inspections and findings, and reported that in looking at all the information, the program appears to be in great shape. Industry and OPS need to look at resolving the standard development process and discuss how to move forward into the consensus standard process. However, continued actions to address OQ issues will be necessary. New issues are expected to spring up and OPS will need to address them.

Key points and discussions during Richard's presentation included:

- Concerning the role of a National Consensus Standard on increasing assurance of qualified pipeline personnel, it is very important that both federal and state representatives participate in the process. This is the next step to arrive at a complete, viable program.
- Concerning guidelines for small operators, those who have an interest certainly should participate. Some have indicated they didn't know why this was needed. Suggest reconsidering thoughts. Guidance certainly shouldn't affect large companies, but should help the small ones.
- FAQs: When we first started, many were concerned about FAQs so they were removed. One of the deliverables from OPS was to provide FAQs. Many companies do not have the resources to interpret and understand regulations, and the FAQs are intended to assist them in effectively and efficiently implementing their OQ programs.
- Key Definitions: Some conclusions have been arrived at based on industry's input, but others have remained as is, based on directives from HQ.
- Supplementary Guidance: As we move forward with inspections, if a need arises for more detailed information, best practices, etc., OPS would consider adding this information to the guidance.

Warren Miller presented an overview of the final protocols, describing what the protocols are and how inspectors will use them, and presented several examples. Questions were asked from the audience concerning the statement on the role of protocols, how the protocols might be used by state inspectors, clarification of the use of the "verify" statements in the protocols, and how the field inspections will be conducted. Key points arising from the question and answer session were:

- The introductory statement at the front of the protocols has been designed to ensure consistency and clarification of expectations to inspectors using the protocols. The protocols themselves are guidance, and not enforceable. Citations will be issued against the regulations.

- The states have had representatives involved in the protocol development process, and have been asked by OPS to consider using the protocols in their inspection process and report findings in a manner that can be added to a database available to all inspectors. The states, however, are independent and may or may not use the protocols as defined in their intrastate inspections.
- The verify statements are used to verify that enforceable requirements of the rule have been met by the operator during the conduct of the inspection.
- Field verification questions (Element 9) have not received as much attention as the other eight elements to date, and the question set has not been employed in any field inspections to date. Now that the final protocols are established, Element 9 will be revisited and adjusted as necessary to reflect the final protocols and to focus on those things that are necessary to verify in the field. For example, it is anticipated that field verifications would concentrate on questionable issues identified during headquarters inspections that need follow-up by observing field activities and posing questions to individuals performing covered tasks (e.g., those AOCs that are expected to be encountered during performance of the task), plus verifications of individual qualifications for performance of the task. The field verifications will not deal with philosophical (why do you do this) questions, but rather will focus on factual information to discern the adequacies or inadequacies of the OQ program as it is applied to individuals and covered tasks.

Richard Sanders presented an introduction to and overview on regulatory observations on the early application of protocols, based on the four inspections conducted in April 2003 that employed the final protocol set. Key points from the presentation and from questions and answers during the presentation were:

- These four and the three conducted in December 2002 are just the beginning of approximately 3,000 operators that will require inspection prior to December 2005.
- Both federal and state inspectors may be involved in an operator's inspection; they are invited.
- Field verifications will be focused on reviewing documentation and observing performance. They may be more extensive or less extensive, depending on findings from headquarters inspections. They may be integrated with standard inspections, and may be performed by inspectors in other regions for large, multi-region operators.
- OPS intentions to share inspection results with states through a database system is intended to focus on findings and not on individual operators. The legal constraints to sharing findings developed during a federal inspection process with non-interstate agents is being investigated by OPS legal. The intention is to minimize multiple inspection impacts on operator and state resources by using the federal inspections to satisfy interstate agent inspection requirements, and to share enough information in order to provide guidance on where weaknesses in OQ programs have been occurring.
- The NARI (Notice of Areas of Recommended Improvement) is no longer applicable to the OQ regulatory process – only NOAs and NOPVs.
- Operator presentations of their OQ program, ready availability of supporting documentation and evidence of program implementation, and professionalism and positive attitude of operator representatives work together to provide an effective and efficient inspection process.

Federal and state inspectors presented more detailed categories of initial inspection findings. Key points and questions and answers were as follows:

- Programs inspected were good quality programs, but operators agreed with inspectors that additional improvements could be made. No programs are expected to be fully mature, but inspection process is looking for strength and progress in areas addressed by the rule.
- Integration of OQ with other management systems the operator had in place varied from very good to little integration, even though other management systems existed and could complement the OQ program, such as change management.
- There are only three ways to remove a regulated pipeline from coverage under the O&M portion of the regulations:
(1) abandonment (*the “permanent” way*); (2) conversion to service of another type (*when converting coverage from Part 192 to Part 195 or vice versa*); and (3) replacement of pipeline segments or components - not for repair or maintenance purposes, but in order to increase throughput capacity (*that is, in order to meet increased load requirements*).
- OPS believes that all excavation activities within a pipeline facility (whether by the operator’s employees, contractors or third parties) have to be addressed within the operator’s covered task list. §192.614 and §195.442 provide that the operator’s “damage prevention program” must “prevent damage to (buried pipelines) from excavation activities” and goes on to describe what is meant by “excavation activities”. When performed within the pipeline ROW near high pressure pipelines, excavation activities clearly pass the four-part test. We also have to recognize the difficulties faced by operators of low pressure distribution systems, where there may be a great many third party crossings or other nearby excavations at any point in time. Operators of these systems must have adequate leeway to assess the risks posed by such activities and address the problem in an appropriate manner. This belief, however, does not mean that third party individuals must be qualified. Detailed resolution of this issue may have to wait until the National Consensus Standard.
- The identification of individuals contributing to an incident or accident and the questioning of their qualifications may differ for an immediate (at the time of performance of a covered task or shortly thereafter) or delayed (5, 10, 15 or more years after the performance of a covered task) incident or accident. Immediate may be more readily traceable to individual performance problems, as opposed to delayed, where individual involvement may be masked by time. A good root cause process and corrective action program is necessary. Operator concern on this issue was evident.
- Concerns with the use of work performance history review (characterized as “WPHR-lite”) for qualification of individuals may result in follow-up during field verification inspections to determine if the operator’s use of this process was valid.
- Concerns continue with qualifications of contractors and how the operator accepts them and reviews them. Again, field verification inspections will be used to validate if there are violations or issues. Where the method for performing covered tasks by a contractor differ from those methods performed by an operator employee, the operator should review and approve that different method.
- Credentialing of evaluators is not a rule requirement, but will be discussed with operator. Where there are concerns, field verification inspections will concentrate on capability of individuals to perform covered tasks as required by the evaluation process.

In response to the regulatory observations on the inspection process using the protocols, Daron Moore and Michelle Snider presented industry’s observations on the application of the protocols, consolidated from the four inspections conducted. Key points from the presentation were:

- There were 6-8 inspectors involved in each audit consisting of regional office staff, state agency staff, and OPS contractor support.
- Inspections generally lasted 1-1.5 days

- Inspectors/OPS HQ stated NARIs would not be used for any OQ findings
- Operators began inspections with discussion/presentation of their OQ processes/approaches
- In-depth discussion of protocols & operator's plan followed
- OPS usually asked for a demonstration of internal recordkeeping and OQ processes
- Regulators caucused for 1-2 hours to compile findings/additional questions
- OPS then conducted close-out discussion
- Generally one inspector led protocol discussions
- Each inspector present had opportunity to question/comment
- Attending state agencies indicated separate HQ inspection would not be conducted for that state
- Overall, industry was pleased with constructive & professional manner inspectors displayed during inspection
- Industry recognizes that demeanor of both inspectors and operators can influence inspection tone
- Industry believed protocols discussed/used in way they were intended
- Industry felt regulators were clear regarding the enforceable/not enforceable protocols
- Regulators indicated field verifications will be conducted and are anticipated for mid-June
- Regulators encouraged operators to submit correspondence identifying any actions based on inspection feedback
- Regulators focused on supporting documentation/flowcharts/roles and responsibilities
- Regulators were very careful not to discuss best practices or make operator comparisons

Additional comments and discussions following these presentations addressed re-evaluation intervals and the continued concern with re-evaluation intervals expressed by NTSB. The study conducted by Bernie Selig on behalf of the industry and any additional input that can be generated to substantiate intervals chosen will help alleviate NTSB's concerns.

Bernie Selig presented the results of the study on re-evaluation intervals for pipeline personnel. Key points from the presentation were:

- Requalification intervals vary from two years for the Nuclear Regulatory Commission to five years for the Coast Guard, but it should be recognized that NRC operators, for example, have very rigorous continuing training requirements in the interim between re-qualifications.
- Pipeline industry fatalities and incidence of operator error are relatively low.
- Reevaluation intervals should be based on the risk involved in the task (on a tiered approach). A balanced approach to the subject of reevaluation intervals is needed considering the safety record, and what the payback may be for overly concentrating on OQ in light of all the other regulatory requirements and competitive pressures faced by industry.

Mike Comstock presented the status of the preparation of small operator guidance. Key points from the presentation and from questions and answers were as follows:

- Expect to complete the definition of characteristics of a small operator by June 30, 2003. Formal development of guidance material, including a small system operator OQ criteria matrix, may be some time after that date.
- Material developed may or may not be incorporated in either the Small Operator Guide or the Small Operator Guide for LP Systems – this decision hasn't been reached.
- The CBT for inspectors will not initially address the difference between large and small operators, but may be revisited once the guidance material is developed.

- The guidance on small operators may not be “one size fits all.” It may have to be assessed by inspectors and state program managers on a case-by-case basis.

Daron Moore provided an overview of the status of the National Consensus Standard process (now known as B31.Q). It has been approved by ASME B31 as an ASME standard, and is currently being balloted by BPTCS committee (due May 7). First meeting is expected in late June. Twenty industry representatives have signed up, expect five state and five federal representatives. The standard is a technical standard, not a regulatory document. Regulators must take standard and fold into rulemaking as they see fit.

Closing discussions addressed the following points:

- The 13 issues identified as a result of the San Antonio meeting will be discussed with industry and the resolution published on the OQ website. This was intended for discussion in this meeting, but reaction to the April 4 regulatory position on the 13 issues was not provided. Agreement in principal has been reached on many of the issues, but some will await the consensus standard process before resolution and closure can be achieved.
- If a LDC operator wishes to volunteer for an inspection with state representatives and have federal observers as part of the inspection, this should be set up through the state regulatory agency. They would indicate if they wanted federal observation/involvement.